

| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|-------------------------------|------------------------|---------------------|--|
|                               | 10/644,085             | CHEW ET AL.         |  |
|                               | Examiner               | Art Unit            |  |
|                               | Konata M. George       | 1616                |  |

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to terminal disclaimer filed January 25, 2005.

2.  The allowed claim(s) is/are 1-16.

3.  The drawings filed on 20 August 2003 are accepted by the Examiner.

4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 5.  Notice of Informal Patent Application (PTO-152)
- 6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.

## **DETAILED ACTION**

Claims 1-16 are pending in this application.

### ***Drawings***

1. The drawing(s) filed under 37 CFR 1.184 or 1.152 are accepted by the examiner.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on April 14, 2004 was noted and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

### ***Action Summary***

3. Examiner acknowledges the terminal disclaimer filed over the following copending applications or US Patents: 10/428,012, 10/428,016, 10/428,017, 10/428,017, 10/428,018, 10/428,019, 6,818,226 and 6,299,600.

### ***Statement of Reasons for Allowance***

4. The following is an examiner's statement of reasons for allowance:  
The claims are allowable over the cited prior art because the prior art does not teach, disclose nor make obvious a transdermal drug delivery system comprising a therapeutically effective amount of an antifungal agent, at least one dermal penetration enhancer which is a safe skin-tolerant ester sunscreen and at least one volatile liquid.

The closet prior art of Hue et al. teaches a topical composition containing penetration enhancers. Hue et al. does not teach that the transdermal delivery containing the therapeutic agent together with the claimed dermal penetration enhancer as defined by applicant.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

5. Claims 1-16 are allowed.

***Telephone Inquiries***

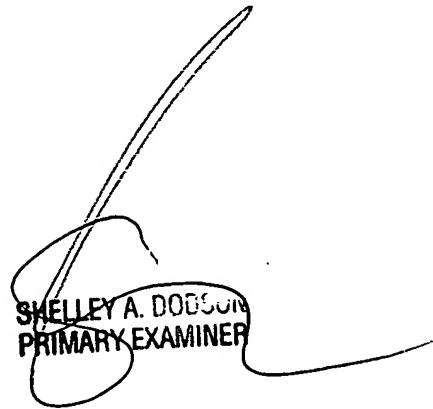
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is (571) 272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Art Unit: 1616

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Konata M. George



A handwritten signature in black ink, appearing to read "KONATA M. GEORGE". Below the signature, the name "SHELLEY A. DODSON" is printed in a bold, sans-serif font, followed by "PRIMARY EXAMINER" in a smaller font.